

NR

PH 487



FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION
1300 MARCINSKI ROAD
JUPITER, FL. 33477

Report Date / Time 4/2/2023 06:59 PM	Report Number C-4364AB	Case Number/Cad Number FWC23ON0028543 / FWCS23IN0018147	Reporting Officer Name CERNUTO, ELISHA D
Originating Agency ORI FL0608000	Occur Date Time Range 04/02/2023 17:41:27 -	Jurisdiction	
OBTS Number	Other Number	Clearance	

Location of Occurrence

County PALM BEACH	Location Type PUBLIC PLACE	Location Description BRIDGE BLUE HERON BLVD ICW
Street Number E BLUE HERON BLVD	Apt/Lot/Bldg FWC	City WEST PALM BEACH
State FL	Zip Code 33404	

Defendant

First Name DIEGO	Middle Name FERNANDO	Last Name VILLEGAS	Suffix	Race H	Sex MALE	Height 5'09"	Weight 165	Hair BLACK	Eyes BROWN
MNI #	SSN [REDACTED]	Date of Birth 06/12/1983	Age 39	ID Type E	Drivers License or other ID V422166832120	State FL	OCA / Agency ID		
Place of Birth: Guadalupe, Mx									
Address * RESIDENCE / 5148 51ST WAY, , FL 33409 /									

Arrest

Arrest Date/Time 4/2/2023 5:55:27 PM	Arrest Location Type PUBLIC PLACE	Arrest Location Description WATERS OF THE STATE
Street Number E BLUE HERON BLVD	Apt/Lot/Bldg FWC	City PALM BEACH
State FL	Zip Code 33404	

Charge: STATE STATUTE

Count 1	Charge 327.38(1)(c)	Bond Amount \$0.00	☐ No Bond
Charge Degree SECOND DEGREE	Charge Level MISDEMEANOR		
General Offense Code	Arrest Offense Code DUI-UNLAW BLD ALCH		
Charge Description OPERATING A VESSEL WITH AN UNLAWFUL BREATH ALCOHOL LEVEL OF .08 OR HIGHER			
Administrative Code - Description			

APR 2 PM10:19

FILED PBC - GUN CLUB
128 APR 8 AM7:36

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Bond Set by Officer

Bond Amount	☐ No Bond
Bond Type(s)	

Probable Cause

On Sunday, March 2, 2023, I, Officer E. Cernuto, along with Officer A Koger and A. Gilmore of the Florida Fish and Wildlife Conservation Commission (FWC), was conducting vessel patrol in vicinity of Peanut Island in Palm Beach County, FL. While on the NW side of the island, i observed subject vessel (Florida FL7033TD) a 2022 Yama Jet Ski failing to abide by the slow speed area and with his Personal Floatation Device open and not donned in the manner intended by the manufacturer. Based on this observation, we then conducted a vessel stop to address the violation.

I then made contact with operator Diego Villegas (photo identified through NCIC), who immediately began attempting to secure his PFD. When I addressed the violation, he made a reference to it being secured now. I observed that the subject had glassy, bloodshot, and watery eyes while speaking with him. When asked where his driver's license was from, he appeared to struggle stating "Florida". I then asked Mr. Villegas to step onto my vessel to conduct Seated Field Sobriety Tasks (SSFST's), which he consented to.

The findings are as follows:

Horizontal Gaze Nystagmus - Right and Left Eye
Nystagmus at Maximum Deviation - Right and Left Eye
Onset Prior to 45 Degrees - Right and Left Eye

Finger to Nose

Unable to Follow Instructions (continually had to be prompted to stop attempting to complete the tasks prematurely)

Started at Wrong Time

Did Not Close Eyes (had to be prompted)

Did Not Tilt Head (had to be prompted)

Opened Eyes During the Task (had to be prompted to close)

Moved Head During Task 1" +

Palm Pat

Unable to Follow Instructions

Started at Wrong Time

Double Patted

Did Not Increase Speed

Stopped Before Told

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Hand Coordination
Unable to Follow Instructions
Started at Wrong Time

Task 1
Improper Count
Improper Touch

Task 2
Did Not Perform

Task 3
Did Not Perform

Task 4
Did Not Perform

Based on the completion of the SSFST's, as well as other physical clues and indicators observed, Mr. Villegas was placed under arrest for Boating Under the Influence. The subject was then transported to the Palm Beach County BAT, where he provided a sample of his breath to determine his Breath Alcohol Content (BAC), at which time he provided a lawful sample of .157 and .153.

Possession of the vessel was taken by Sea Tow Palm Beach.

End Report.

Jail Booking Facility

Booking Date/Time 4/2/2023 06:47 PM	Booking County PALM BEACH	Booking Facility MAIN DETENTION CENTER	Booking Facility Phone (561) 996-1699
Booking Facility Location 3228 GUN CLUB ROAD WEST PALM BEACH, FLORIDA 33406-3001			Booking Number
Booking Comments			

Court

Court County PALM BEACH	Court Location 3188 PGA BLVD RM 210 PALM BEACH GARDENS FL 33410		
Court	Court Phone	Court Appearance Date / Time	Court Fine

Arrest Report

Report Date / Time 4/2/2023 06:59 PM	Report Number C-4364AB	Case Number / Call Number FWC23ON0028543 / FWCS23IN0016147	Reporting Officer Name CERNUTO, ELISHA D
Originating Agency ORI FL0508000	Occur Date Time Range 04/02/2023 17:41:27 -	Jurisdiction	
OBTS Number	Other Number	Clearance	
PALM BEACH COUNTY, NORTH COURTHOUSE		05/03/2023 08:30 AM	
Comments			

Officer Name Rank / ID #	Involvement On Report / Reporting Role	Officer Agency Org/Unit
CERNUTO, ELISHA D OFFICER SP WN887	REPORTING OFFICER	FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION FWCSISO REGION A/MARTIN

The undersigned certifies and swears that he/she has just and reasonable grounds to believe that the above named Defendant, committed violation(s), of law, on the below date(s) and time(s), as listed in the probable cause associated with this report:

Reporting Officer

Officer Name CERNUTO, ELISHA D	Office Rank OFFICER SP	Officer ID No WN887	Sworn and subscribed before me, the undersigned authority This the _____ day of _____, _____ DEPUTY OF THE COURT, NOTARY OR LAW ENFORCEMENT
Officer Agency FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION			
Officer Signature 			

☐ No Bill / Petition	☐ Issue Warrant	☐ Prosecution Approved	Signature of Assistant State Attorney	Date
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SUBJECT: Villegas, Diego F CASE NUMBER: FWC230N0028543

IMPLIED CONSENT FOR DUI IN A MOTOR VEHICLE

NOTE: READ ONLY THE PARAGRAPH APPLICABLE TO THE TYPE OF TEST YOU ARE REQUESTING.

I am now requesting that you submit to a lawful test of your **BREATH** for the purpose of determining its alcohol content.

OR

I am now requesting that you submit to a lawful test of your **URINE** for the purpose of determining the presence of chemical or controlled substances.

NOTE: READ ONLY IF THE SUBJECT DOES NOT COMPLY WITH YOUR REQUEST.

I am _____ of the _____

If you refuse to take the test I have requested of you, your driving privilege will be suspended for a period of one (1) year for a FIRST REFUSAL, or eighteen (18) months if your driving privilege has been PREVIOUSLY SUSPENDED, or if you have been PREVIOUSLY FINED under s. 327.35215, for refusing to submit to a lawful test of your breath, urine, or blood. Additionally, if you refuse to take the test I have requested of you, and if your driving privilege has been previously suspended, or if you have been previously fined under s. 327.35215, for a refusal to submit to a lawful test of your **breath, urine** or blood, you will be committing a misdemeanor, in addition to any other penalties which can be imposed by law.

Refusal to submit to the test I have requested is admissible into evidence in any criminal proceeding.

Do you understand what I have just read to you? YES <or> NO Do you still refuse to submit to this test? YES <or> NO

NOTE: IF THE SUBJECT POSSESSES A COMMERCIAL DRIVER'S LICENSE (CDL), READ THE FOLLOWING,

If you are a Commercial Driver License (CDL) holder or were driving a Commercial Motor Vehicle (CMV), your refusal to submit to testing will result in the loss of your commercial driving privilege for a period of one year from today. If this is your SECOND REFUSAL, you will be permanently disqualified from holding a CDL or operating a CMV.

Do you understand what I have just read to you? YES <or> NO Do you still refuse to submit to this test? YES <or> NO

SUBJECTS SIGNATURE: (X) _____

CONSTITUTIONAL WARNINGS

I AM REQUIRED TO WARN YOU BEFORE YOU MAKE ANY STATEMENTS THAT YOU HAVE THE FOLLOWING RIGHTS:

1. You have the right to remain silent and not answer any questions.
2. Any statement must be freely and voluntarily given.
3. You have the right to the presence of a lawyer of your choice before you make any statement and during any questioning.
4. If you cannot afford a lawyer, you are entitled to the presence of a court appointed lawyer before you make any statements and during any questioning.
5. If at any time during the interview you do not wish to answer any questions, you are privileged to remain silent.
6. I can make no threats or promises to induce you to make a statement. This must be of your own free will.
7. Any statement can and will be used against you in a court of law.

SUSPECT'S SIGNATURE: (X) Read on Camera

SUBJECT: VILLEGAS, DIEGO F

CASE NUMBER: FWC 23010028543

QUESTIONS AND ANSWERS

I AM NOW GOING TO ASK YOU SOME QUESTIONS. WITH THESE RIGHTS IN MIND, YOU MAY ANSWER SOME OF, ALL OF, OR NONE OF THE FOLLOWING QUESTIONS AS YOU LIKE.

WERE YOU OPERATING A ^{VESSEL}~~MOTOR VEHICLE~~ AT THE TIME OF THE STOP/ACCIDENT? _____

WHERE WERE YOU GOING? _____

WHAT ^{WATERWAY}~~STREET OR HIGHWAY~~ WERE YOU ON? _____

DIRECTION OF TRAVEL? _____ WHERE DID YOU START? _____

WHAT TIME DID YOU START? _____ WHAT TIME IS IT NOW? _____

WHAT IS TODAY'S DATE? _____ WHAT DAY OF THE WEEK IS IT? _____

WHAT COUNTY AND CITY ARE YOU IN NOW? _____

WHEN DID YOU LAST EAT? _____ WHAT DID YOU EAT? _____

WHAT HAVE YOU BEEN DOING FOR THE LAST ~~THREE~~ HOURS? _____

HOW MUCH DO YOU WEIGH? _____ HAVE YOU BEEN DRINKING? _____ WHAT? _____

HOW MUCH? _____ WHERE? _____ WITH WHOM? _____

WHEN DID YOU HAVE YOUR FIRST DRINK? _____ AND YOUR LAST DRINK? _____

HOW DID YOU CONSUME YOUR LAST TWO DRINKS? _____

CAN YOU FEEL THE EFFECTS OF THE ALCOHOL? _____ ARE YOU UNDER THE INFLUENCE? _____

HAVE YOU CONSUMED ANY ALCOHOL SINCE THE ACCIDENT? _____ HOW MUCH? _____

WHAT? _____ WHERE? _____ WHEN? _____

WHAT LINE OF WORK ARE YOU IN? _____ WHEN DID YOU LAST WORK? _____

DO YOU HAVE ANY PHYSICAL DEFECTS OR INJURIES? _____ WHAT? _____

ARE YOU SICK OR INJURED? _____ WHAT'S WRONG? _____

DO YOU LIMP? _____ DID YOU RECEIVE A BUMP ON THE HEAD RECENTLY? _____

WERE YOU IN AN ACCIDENT TODAY? _____

HAVE YOU TAKEN ANY DRUGS OR SMOKED ANY MARIJUANA TODAY? _____ WHEN? _____

HAVE YOU SEEN A DOCTOR OR DENTIST TODAY? _____ WHO? _____ WHY? _____

ARE YOU TAKING ANY PRESCRIPTION MEDICINES? _____ WHAT? _____ WHEN? _____

DO YOU HAVE: EPILEPSY? _____
 GLASS EYE? _____
 FALSE TEETH? _____
 EAR INFECTION? _____
 INNER EAR TROUBLE? _____
 DIABETES? _____

DO YOU HAVE ANY PROBLEMS WITH YOUR EYES THAT ARE NOT CORRECTED BY GLASSES? _____

DO YOU TAKE INSULIN? _____ IF SO, WHEN WAS YOUR LAST INJECTION? _____

HAVE YOU EVER HAD A DRIVER'S LICENSE IN ANY OTHER STATE? _____ WHERE? _____

INTERVIEWER: _____

WHITE - STATE ATTY.

YELLOW - DHSMV

PINK - CENTRAL RECORDS

GOLD - JAIL

**FLORIDA DEPARTMENT OF LAW ENFORCEMENT
ALCOHOL TESTING PROGRAM
BREATH ALCOHOL TEST AFFIDAVIT**

Instrument Type: Intoxilyzer 8000
Instrument Registered To: PALM BEACH CO SO
Instrument Serial Number: 80-006240 Software: 8100.27
Date of Test: 04/02/2023

Date of Last Agency Inspection: 03/10/2023
Observation Period Began: 18:47
Subject's Name: DIEGO VILLEGAS

DOB: 06/12/1983 Sex: M

The subject was observed for at least twenty-minutes prior to the administration of the breath test to ensure that the subject did not take anything orally and did not regurgitate.

Results:	Test	g/210L	Time
	Diagnostics Check	OK	19:34
	Air Blank	0.000	19:34
	Control Test	0.080	19:35
	Air Blank	0.000	19:35
	Subject Sample #1	0.154	19:36
	Air Blank	0.000	19:37
	Air Blank	0.000	19:39
	Subject Sample #2	0.152	19:39
	Air Blank	0.000	19:40
	Control Test	0.079	19:40
	Air Blank	0.000	19:41
	Diagnostics Check	OK	19:41

Cylinder Lot: 08622080A1
Exp: 06/05/2024

State of Florida, County of Palm Beach

Personally appeared before me the undersigned authority, who (☒) is personally known to me or (☐) produced _____ as identification, and who after being placed under oath, states:

I PARIS D POUND, hold a valid Breath Test Operator permit issued by the Florida Department of Law Enforcement, I administered the above breath test to the subject named above in accordance with Chapter 11D-8, Florida Administrative Code, and this form is a true and accurate report of that breath test.

Breath Test Operator: _____ Date: 04/02/2023
Signature

Sworn to (or affirmed) before me this 2nd day of APRIL, 2023

Signature of Notary Public-State of Florida _____ Printed Name of Notary Public-State of Florida OFL. E. CERNUTO

Note: Pursuant to section 117.10, Florida Statutes, law enforcement officers, correctional officers, traffic accident investigation officers and traffic infraction enforcement officers are notaries public when engaged in the performance of official duties. In accordance with section 316.1934(5), F.S., this completed form is admissible without further authentication and is presumptive proof of the results herein. To be used in accordance with Section 316.1934(5), F.S., and in administrative proceedings pursuant to 322.2615, F.S.



PALM BEACH COUNTY SHERIFF'S OFFICE
DUI TESTING FACILITY
INFORMATION SHEET

PBSO CASE # 23-053037 PBSO ZONE 3-13

AGENCY CASE # FWC230N0028543 CRASH CASE # _____

TIME OF STOP/CRASH 17:41 DATE 4-2-23 DAY Sun

SUBJECT'S NAME Villegas Diego F RACE H SEX M
LAST FIRST MID

HGT 5'9 WGT 160 DOB 6-12-83

LOCATION Peanut Island

ARRESTING OFFICER'S NAME & ID Cernuto 11887 AGENCY FWC

DIVISION: LE

NOTIFIED BY COMMO 7

ARRIVAL AT FACILITY 1847

ARREST TIME 1755

BREATH RESULTS:

1)	.154
2)	.152
3)	N/A
4)	N/A

TESTING OFFICER'S ID 24639 PBSO VIDEOTAPE # N/A



PALM BEACH COUNTY SHERIFF'S OFFICE
DUI TESTING FACILITY
INFORMATION SHEET

PBSO CASE # 23-053037 PBSO ZONE 3-13
AGENCY CASE # FWC23DN0028543 CRASH CASE # _____
TIME OF STOP/CRASH 17:41 DATE 4-2-23 DAY Sun
SUBJECT'S NAME Villegas Diego LAST FIRST MID RACE H SEX M
HGT 5'9 WGT 160 DOB 6-12-83
LOCATION Peanut Island
ARRESTING OFFICER'S NAME & ID Cernuto 11887 AGENCY FWC
DIVISION: LE NOTIFIED BY COMMO 7
ARRIVAL AT FACILITY 1847
ARREST TIME 1755

BREATH RESULTS:

1)	.154
2)	.152
3)	N/A
4)	N/A

TESTING OFFICER'S ID 24639 PBSO VIDEOTAPE # N/A

TESTING FACILITY TASK REPORT

AGENCY: FWC

SUBJECT: VILLEGAS, DIEGO

CASE NUMBER: 23-053037

DATE: Apr 2, 2023

VIDEO DVD NUMBER: N/A

BEGINNING TIME: 19:29

ENDING TIME: 19:42

BREATH TESTS RESULTS: 1) .154 TIME 19:36 A.M. ☐ P.M. ☒ 2) .152 TIME 19:39 A.M. ☐ P.M. ☒
3) N/A TIME N/A A.M. ☐ P.M. ☐ 4) N/A TIME N/A A.M. ☐ P.M. ☐

BREATH OPERATOR: P.POUND #24639

MAINTENANCE TECHNICIAN: J. KARLECKE# 6467

TESTING OFFICER'S OBSERVATIONS

SPEECH: PRONOUNCED

ATTITUDE: CALM, QUIET

CLOTHING: GRAY / BLACK SHORTS/ NO SHIRT / NO SHOES

MEDICAL CONDITIONS: NONE

MEDICATIONS: NONE

OTHER:

COMMENTS:

ARRIVED AT CENTER A/O BEGAN THE 20 MINUTE OBSERVATION PERIOD AT HRS.

SUBJECT: AGREED TO TAKE TEST, THEN ASKED WHAT HAPPENS IF HE DO NOT

A/O: READ I/C

SUBJECT: STATED HE UNDERSTOOD I/C AND AGREED TO TAKE TEST

A/O: READ RIGHTS

SUBJECT: STATED HE UNDERSTOOD RIGHTS

TECH: READ TEST RESULTS

SUBJECT: STATED HE UNDERSTOOD TEST RESULTS

A/O: ATTEMPTED Q&A

SUBJECT: REFUSED QUESTIONS



**PALM BEACH COUNTY
SHERIFF'S OFFICE**
Florida State Statute Exemption Sheet

Palm Beach County Sheriff's Office – Arrests Only

	X	Florida State Statute	Description	Page Number(s)
L/E Exemptions	☐	119.071(2)(d)	Surveillance techniques, procedures and personnel; inventory of law enforcement resources, policies or plans pertaining to mobilization deployment or tactical operations.	
	☐	943.053, 943.0525	NCIC/FCIC/FBI and in-state FDLE/DOC.	
	☐	119.071(4)(c)	Undercover personnel.	
	☐	119.071(2)(f)	Confidential informants (CIs).	
	☐	119.071(2)(e)	Confession.	
Public Info. Exemptions	☐	985.04(1)	Juvenile offender records.	
	☐	119.071(h)(i)	Assets of a crime victim.	
	☐	395.3025(7)(a), 456.057(7)(a)	Medical information.	
	☐	394.4615(7)	Mental health information.	
	☐	119.071(4)(d)(2)(a)	Home address, telephone, Social Security number, date of birth, or photos of active/former LE personnel, spouses, and children.	
Florida Rules of Judicial Administration 2.420 (Rule of 23)	☒	(iii) 119.0714(1)(i)-(j), (2)(a)-(e)	Social Security, bank account, charge, debit, and credit card numbers.	2
	☐	(viii) 394.4615(7)	Clinical records under the Baker Act.	
	☐	(xii) 741.30(3)(b)	The victim's address in a domestic violence action on petitioner's request.	
	☐	(xiii) 119.071(2)(h), 119.0714(1)(h)	Protected information regarding victims of child abuse or sexual offenses.	
	☐			
	☐			
	☐			
	☐			
Other	☐		Other:	
	☐		Other:	

REVIEW COMPLETED BY

Booking Number: 2023008601	Date: 4/3/2023
	Specialist Name/ID: R.Castro/40259